

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-PS-O-

RAMELLO ALLEN, 99-A-3928,

Plaintiff,

-v-

05-CV-0327Sc
ORDER

SUPERINTENDENT CALVIN WEST,
SERGEANT GRAY, CORRECTION OFFICER BRYAN,
CORRECTION OFFICER WINISKI,
CORRECTION OFFICER WILLET,
CORRECTION OFFICER HALLENGREN,
CORRECTION OFFICER LONGWELL,
CORRECTION OFFICER BAILEY,
REGISTERED NURSE BRINK,
being sued in their individual capacity,

Defendants.

On April 5, 2006, the Court granted plaintiff permission to proceed *in forma pauperis*, see 28 U.S.C. § 1915, dismissed the claims pled against defendant Superintended West and directed the Clerk of the Court to cause the U.S. Marshals Service to serve the summons and complaint on the remaining defendants. (Docket No. 7). Plaintiff was then forwarded a Notice directing him to complete the necessary number of U.S. Marshals Service Process Receipt and Return forms and return them to the Court. On August 14, 2006, after the Court had not received any U.S. Marshals Service forms back from plaintiff, the Court issued an order to show cause directing plaintiff to show cause why case should not be dismissed pursuant to Fed.R.Civ.P. 4(m).

On September 18, 2006, plaintiff filed a response to the order to show cause wherein he advised the Court that he never received the U.S. Marshals Service forms and

requested an extension of time to serve the summons and complaint. (Docket No. 9). The Court notes that sometime between the date it forwarded to plaintiff the Notice to complete the U.S. Marshals Service forms and the issuance of the order to show cause, plaintiff was released from custody and his address changed.¹ Accordingly, it appears that plaintiff did not receive the Marshals Service forms, and that he has shown good cause why the case should not be dismissed and why he should be granted an extension of time to serve the summons and complaint on defendants. See Fed.R.Civ.P. 4(m).

IT IS HEREBY ORDERED that the Clerk of the Court is directed to cause the U.S. Marshals Service to serve copies of the Summons, Complaint, this Order and the Order filed April 5, 2006 (Docket Non 7) on Correctional Officers Bailey, Longwell, Hallenren, Willet, Winiski, and Bryan, Correctional Sergeant Gray, and Registered Nurse Brink without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.

FURTHER, defendants are directed to respond to the complaint pursuant to 42 U.S.C. § 1997e(g)(2).

SO ORDERED.

DATED:

9/26, 2006
Buffalo, New York



JOHN T. CURTIN
United States District Judge

¹Plaintiff is reminded of his obligation under Rule 5.2(d) of the Local Rules of Civil Procedure to inform the Court immediately in writing of any change of address. A failure to do so may result in dismissal of the case with prejudice.